

COUNTY COUNCIL
OF
TALBOT COUNTY, MARYLAND

2009 Legislative Session, Legislative Day No.: December 8, 2009

Bill No.: 1177

Expiration Date: February 11, 2010

Introduced by: Mr. Bartlett

A BILL TO SPECIFY THAT COUNTY LEGISLATIVE ACTS SHALL NOT AFFECT ANY PENDING CODE VIOLATION ENFORCEMENT ACTION, WHICH SHALL BE PROSECUTED TO FINAL JUDGMENT, INCLUDING ANY APPEAL, APPLYING THE CODE IN EFFECT BEFORE THE ACT WAS ADOPTED; THAT, NOTWITHSTANDING ADOPTION OF AN ACT, THE COUNTY MAY PURSUE EXISTING VIOLATIONS IN THE SAME MANNER AND SUBJECT TO THE SAME SANCTIONS AS IF THE ACT HAD NOT BEEN ADOPTED; AND THAT ADOPTION OF AN ACT DOES NOT RELEASE, EXTINGUISH, OR CHANGE ANY SANCTIONS FOR EXISTING CODE VIOLATIONS UNLESS THE ACT SHALL EXPRESSLY SO PROVIDE

By the Council: December 8, 2009

Introduced, read first time, ordered posted, and public hearing scheduled on Tuesday, January 12, 2010 at 2:00 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 N. Washington St., Easton, Maryland 21601.

By Order _____
Susan W. Moran, Secretary

A BILL TO SPECIFY THAT COUNTY LEGISLATIVE ACTS SHALL NOT AFFECT ANY PENDING CODE VIOLATION ENFORCEMENT ACTION, WHICH SHALL BE PROSECUTED TO FINAL JUDGMENT, INCLUDING ANY APPEAL, APPLYING THE CODE IN EFFECT BEFORE THE ACT WAS ADOPTED; THAT, NOTWITHSTANDING ADOPTION OF AN ACT, THE COUNTY MAY PURSUE EXISTING VIOLATIONS IN THE SAME MANNER AND SUBJECT TO THE SAME SANCTIONS AS IF THE ACT HAD NOT BEEN ADOPTED; AND THAT ADOPTION OF AN ACT DOES NOT RELEASE, EXTINGUISH, OR CHANGE ANY SANCTIONS FOR EXISTING CODE VIOLATIONS UNLESS THE ACT SHALL EXPRESSLY SO PROVIDE

SECTION ONE: BE IT ENACTED BY THE COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND, that Chapter 1, Article II of the Talbot County Code, entitled "*Rules of Construction*" shall be and is hereby adopted as set forth herein.

KEY

Boldface.....Heading or defined term.

UnderliningAdded to existing law by original bill.

~~Strikethrough~~.....Deleted from existing law by original bill.

Double underliningAdded to bill by amendment.

~~Double strikethrough~~Deleted from existing law or bill by amendment.

* * *Existing law or bill unaffected.

* * *

Effect of Adoption of Code on Pending or Prospective Enforcement Actions

§ 2-1. Definitions.

- 1 **“Act”** -- means the adoption, repeal, repeal and reenactment, or the revision, amendment, or
- 2 consolidation of any section or part of a section of the Code by legislative action of the
- 3 County Council, or public local law enacted by the General Assembly applicable only to
- 4 Talbot County, or by any final action of the Critical Area Commission for the

Chesapeake and Atlantic Coastal Bays approving any proposed amendment or refinement of the Talbot County Critical Area Program.

“Code” – means the Talbot County Code or any part or section thereof, or any public local law enacted by the General Assembly applicable only to Talbot County.

“County” – means Talbot County, Maryland acting through its authorized agents and employees.

“Enforcement action” – means any suit, action, demand, monetary penalty, abatement order, or other administrative, civil, or criminal proceeding brought by the County to enforce the Code.

“Sanction(s)” – means all penalties, forfeitures, liabilities, orders, or remedies, whether administrative, civil, or criminal, established by the Code and all decisions, judgments, decrees, convictions, or penalties, issued by any administrative agency or court to enforce the same.

§ 2-2. Enforcement of Code for previously committed violations.

If an enforcement action is pending for an existing Code violation when an act is adopted, the enforcement action shall be prosecuted and proceed to final decision, determination, and judgment, including all stages of any appeal, applying the Code in effect as if the act had not been adopted. If no enforcement action is pending for an existing Code violation at the time an act is adopted, the County may, notwithstanding adoption of the act, file and pursue enforcement

24 action(s) against a violator in the same manner and subject to the same sanctions as if the act had
25 not been adopted.

26 **§ 2-3. Effect of Code change on sanctions and enforcement proceedings.**

27 Adoption of an act shall not release, extinguish, alter, modify, or change, in whole or in part, any
28 sanctions for Code violations available to the County which have accrued or been issued,
29 incurred, imposed, or declared under the Code, unless the act shall expressly so provide. Any
30 such Code chapter, section, or part thereof, affected by an act shall be treated and held as still
31 remaining in force for the purpose of: (1) imposing any sanctions or filing or pursuing any
32 enforcement action for violations occurring prior to adoption of the act; and (2) reviewing or
33 sustaining any decision, judgment, decree, or order that has been or may be rendered, entered, or
34 made in such enforcement action. Enforcement actions filed after adoption of an act based on
35 violations occurring before adoption of the act shall be prosecuted and proceed to final decision,
36 determination, and judgment, including all stages of any appeal, applying the Code in effect as if
37 the act had not been adopted.

SECTION TWO: BE IT FURTHER ENACTED, that this Bill shall take effect sixty (60) days from the date of its passage, and shall apply to all stages of all pending and prospective enforcement actions.

SECTION THREE: AND BE IT FURTHER ENACTED, that if any provision of this Bill or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Bill which can be given effect without the invalid provision or application, and for this purpose the provisions of this Bill are declared severable.

PUBLIC HEARING

Having been posted and notice of time, date, and place of hearing, and Title of Bill No. 1177 having been published, a public hearing was held on Tuesday, January 12, 2010 at 2:00 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland.

BY THE COUNCIL

Read the third time.

ENACTED: **January 12, 2010**

By Order _____
Susan W. Moran, Secretary

Harrison	-	Nay
Pack	-	Aye
Duncan	-	Aye
Foster	-	Nay
Bartlett	-	Aye